

## **REMARKS/ARGUMENTS**

Applicant responds herein to the Office Action dated November 6, 2006.

Claims 1-22 are currently pending in the application. In view of the remarks to follow, reconsideration and allowance of this application are respectfully requested.

### ***Claim Rejection, 35 U.S.C. §102(b)***

Claims 1-4, 9-13, 15 and 18-22 were rejected under 35 U.S.C. §102 (b) as being anticipated by Straub (5,905,492).

Applicants respectfully traverse the rejection of Claims 1-4, 9-13, 15 and 18-22 under 35 U.S.C. §102 (b). It is respectfully submitted that claims 1-4, 9-13, 15 and 18-22 are patentable over Straub for at least the following reasons.

The present invention relates to a data distribution system, including servers and mobile communication terminals, directed to distributing content from a server to a mobile communication terminal such as a mobile telephone terminal or a personal information terminal. The server stores a plurality of pieces of data (e.g., image and sound data). The mobile communication terminal includes a data request controller which transmits data requests to the server, for controlling transmission of the data request to the server depending on a user-designated time condition. In response to receiving such requests, the server transmits a selected piece of data (e.g., image and sound data) back to the mobile communication terminal. The downloaded data is stored in a memory of the mobile communication terminal and is reproduced by a display and a speaker. Advantageously, in the case where the downloaded image can be used as a standby image on a display of the mobile communication terminal, the standby image can be automatically changed without any user operation because the image and sound data is automatically downloaded each time the user designated transmission time condition is met.

Independent claim 1 recites a system for delivering data from a server to a mobile communication device through a network. The system comprises – (1) a data memory for storing a plurality of pieces of data; (2) a server controller controlling such that a piece of data is selected from the data memory in response to a data request received from the mobile communication device and a selected piece of data is transmitted back to the mobile communication device, (3) a mobile communication device comprising (i) an output device; (ii) a memory; (iii) a data request controller for controlling transmission of the data request to the server depending on a user-designated time condition; and (iv) a controller controlling such that the selected piece of data

downloaded from the server is stored in the memory, wherein the selected piece of data is reproduced by the output device.

Independent Claim 8 recites a method for delivering data from a server to a mobile communication device through a network, comprising the steps of: at the mobile communication device, (1) determining a transmission condition of a data request depending on a user's instruction; (2) transmitting the data request to the server when the transmission condition is met; at the server, (3) storing a plurality of pieces of data; receiving the data request from the mobile communication device; (4) selecting a piece of data from the data memory in response to the data request; (5) transmitting a selected piece of data to the mobile communication device; at the mobile communication device, (6) storing the selected piece of data downloaded from the server in a memory; and (7) reproducing the selected piece of data.

Independent Claim 18 recites a mobile communication device connected to a server through a network, comprising: (1) an output device; (2) a memory; (3) a data request controller for controlling transmission of a data request to the server depending on a user-designated time condition; and a (4) controller controlling such that a piece of data downloaded from the server is stored in the memory, wherein the piece of data is reproduced by the output device.

Independent Claim 20 recites a server for delivering data to a mobile communication device through a network, comprising: (1) a data memory for storing a plurality of pieces of data; and (2) a server controller controlling such that a piece of data is selected from the data memory in response to a data request received from the mobile communication device and (3) a selected piece of data is transmitted back to the mobile communication device.

Independent Claim 21 recites a computer program instructing a computer to download data from a server to a mobile communication device through a network, comprising: (1) determining a transmission condition of a data request depending on a user's instruction; (2) transmitting the data request to the server when the transmission condition is met; (3) receiving a piece of data as a response to the data request from the server; (4) storing the piece of data in a memory; and (5) reproducing the selected piece of data.

Independent Claim 22 recites a computer program instructing a computer to deliver data to a mobile communication device through a network, comprising: (1) storing a plurality of pieces of data; (2) receiving a data request from the mobile communication device; (3) selecting a piece

of data from the data memory in response to the data request; (4) transmitting a selected piece of data to the mobile communication device.

A common element recited in each of the independent Claims, which is neither taught nor suggested in Straub, is directed to - *the issuance of a data request from a mobile communication device dependent upon a user-designated time condition*. For example, Claim 1 recites – *transmission of a data request to the server depending on a user-designated time condition and* Claim 8 recites – *at the mobile communication device, determining a transmission condition of a data request depending on a user's instruction*.

Straub is directed to methods and apparatus for providing themed multi-media enhancements to the graphical user interface (GUI) of a computer's operating system (See Summary). Themed enhancements are provided to the computer's GUI, which are repeatedly updated. An update service performs recurring updates to the themed enhancements by downloading updating resources from a server computer on a network, such as the Internet, connected to a theme-enhanced computer. ***The update service automatically performs the updating at scheduled intervals, at times that the user is otherwise connected to the network, or on other bases.*** A provider of the themed enhancements may continually change the updating resources residing on the server so as to make new enhancements which are consistent with the theme continually available to the theme-enhanced computer. For example, enhancements based on a Leonardo Da Vinci theme can provide wallpaper which one week is an image from Da Vinci's engineering drawings, and a next week is updated to one of Da Vinci's art images. Because the themed enhancements are recurringly updated, the themed enhancements are more likely to retain the user's interest, as well as the timeliness of their information content.

As briefly described above, Straub fails to teach or suggest a mobile communication device issuing a data request, ***dependent upon a user designated time condition***, as recited in each of Independent Claims 1, 8, 18, 20, 21 and 22. Straub teaches that an update service of the server performs recurring updates, automatically, by downloading updating resources from a server computer, connected, via a network, to the theme-enhanced computer. The update service automatically performs the updating at scheduled intervals, at times that the user is otherwise connected to the network, or on other bases. As such, there is no teaching or suggestion of a *dependence upon a user designated time condition* for updating the computer of Straub.

A method for automatically performing updates at scheduled intervals, is taught in Straub throughout the specification and in particular at Col. 3, lines 43-53:

“According to a first aspect, the invention provides themed enhancements to the graphical user interface of a computer (the "theme-enhanced computer") which are repeatedly updated. In a preferred embodiment of the invention, an update service performs recurring updates to the themed enhancements by downloading updating resources from a server computer on a network, such as the Internet, connected to the theme-enhanced computer. **The update service automatically performs the updating at scheduled intervals, at times that the user is otherwise connected to the network, or on other bases.**” [Emphasis Added]

It should be appreciated that the system and method of Straub operate in accordance with a *server driven* methodology that it is consistent with its objectives. Specifically, the system and method of Straub provide updates to a theme being displayed on the theme-enhanced computer. Whenever an update to a currently displayed theme becomes available for downloading, the update service automatically performs the update at a scheduled interval (i.e., server driven). In other words, the provider of the themed enhancements may continually change the updating resources residing on the server so as to make new enhancements which are consistent with the theme continually available to the theme-enhanced computer.

It should be further appreciated that, in contrast to Straub, the system and method of the present invention operate in accordance with a *client driven* methodology that is consistent with its objectives. Specifically, if a user wishing to install a new standby image on the user's mobile telephone device, the new standby image may be installed without having to perform a complex sequence of operations including, connecting to the Internet, searching for a desired image, downloading the desired image and installing it on the mobile telephone device. As such, the new images are performed in accordance with a user designated time condition, which may include downloading data at a scheduled interval, if the user so chooses. However, unlike Straub, the user may choose any designated time condition for downloading data, which is not an option in Straub.

It is respectfully submitted that at least the limitations and/or features of independent Claims 1, 8, 18, 20, 21 and 22 are not anticipated by the disclosure of Straub.

Accordingly, withdrawal of the rejection under 35 U.S.C. §102(e) with respect to Claims 1, 8, 18, 20, 21 and 22 and allowance thereof is respectfully requested.

Claims 2-4, 9, 11-13, 15 and 19 depend from independent Claims 1, 10 and 18, respectively and therefore contain the limitations of Claims 1, 10 and 18 and are believed to be in condition for allowance for at least the same reasons given for Claims 1, 10 and 18.. Accordingly, withdrawal of the rejection under 35 U.S.C. §102(b) and allowance of Claims 2-4, 9, 11-13, 15 and 19 is respectfully requested.

***Claim Rejection, 35 U.S.C. §103(a)***

Dependent Claims 5, 6, 8, 14 and 17 were rejected under 35 U.S.C. §103(a) as being unpatentable over Straub in view of Tanaka (GB 2 372 587 A).

Claims 5, 6, 8, 14, 17 depend from Claims 1 and 10, respectively, and therefore includes the limitations of Claims 1 and 10. Accordingly, for the same reasons given above for Claims 1 and 10, Claims 5, 6, 8, 14, 17 are believed to contain patentable subject matter. Accordingly, withdrawal of the rejections with respect to Claims 5, 6, 8, 14, 17 and allowance of Claims 5, 6, 8, 14, 17 is respectfully requested.

Claim 5 is also considered to be patentable because Tanaka does not show or suggest, the data request controller holds the transmission of a data request to the server when at least one communication or internal processing function is operating in the mobile communication device. Tanaka merely describes how automatic downloading may be performed. The steps generally including, an initiation step, a determination step to check timing, a step to establish an Internet connection and a step to determine when the next download is scheduled. By contrast, Claim 5 is directed to temporarily holding one process in abeyance (i.e., the transmission of a data request) when it is determined that a communication or internal processing function is operating in the mobile communication device. In other words, the transmission of a data request is postponed, or put on hold until the communication or internal processing function terminates. Tanaka is silent with regard to multiple processes vying to execute simultaneously.

***Claim Rejection, 35 U.S.C. §103(a)***

Dependent Claims 7 and 16 were rejected under 35 U.S.C. §103(a) as being unpatentable over Straub in view of Yeh (6,675,010).

Claims 7 and 16 depend from Claims 1 and 10, respectively, and therefore includes the limitations of Claims 1 and 10. Accordingly, for the same reasons given above for Claims 1 and 10, Claims 7 and 16 are believed to contain patentable subject matter. Accordingly, withdrawal of the rejections with respect to Claims 7 and 16 and allowance of Claims 7 and 16 is respectfully requested.

### **Conclusion**

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims presently pending in the application, namely, Claims 1-22 are believed to be in condition for allowance and patentably distinguishable over the art of record.

Accordingly, the Examiner is respectfully requested to reconsider the application, allow the claims as amended and pass this case to issue.

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Respectfully submitted,



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